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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/427,260 | 10/25/1999 | FARHAD KHOSRAVI | 239/227 | 2937 |

34313 7590 09/29/2004

ORRICK, HERRINGTON & SUTCLIFFE, LLP
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

EXAMINER

PELLEGRINO, BRIAN E

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3738

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/427,260

Applicant(s)

KHOSRAVI ET AL.

Examiner

Brian E Pellegrino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29,30,55-57 and 59-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29,30,55-57 and 59-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 29,30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fogarty et al. '520 in view of Khosravi et al. (5441515). Fogarty is explained supra. However, Fogarty does not disclose a plurality of locking elements extending from the inner section to the outer to secure the stent in the enlarged condition. Khosravi et al. teach (Figs. 4,5) a coiled sheet stent with a plurality of locking elements **25** that extend from the inner section to the outer section and secure the stent in an expanded condition. Khosravi teaches that locking elements are used on coiled sheet stents to prevent failure of the device, such that it maintains patency, col. 1, lines 49-51. It would have been obvious to one of ordinary skill in the art to incorporate a plurality of locking elements in the coil sheet stent as taught by Khosravi et al. in the stent of Fogarty such that it remains in the enlarged condition and does not collapse in the patient.

Claim 55-57,59-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray et al. (5895406) in view of Khosravi et al. '515. Gray et al. (Fig. 6) show a stent with wing-like shape formed of a pair of longitudinal elements with each having undulations. It can be seen that longitudinal adjacent cells are connected at the tips of wing-like elements. Gray et al. disclose the stent pattern provides good axial flexibility, col. 2, lines 27-34. Gray also discloses the stent can be formed from many different

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methods, col. 4, line 62. However, Gray does not disclose the stent is formed of a coiled sheet or include locking elements or that a shape memory material can be used.

Khosravi is explained supra. Khosravi also teaches that stents can be made of shape memory materials for flexibility, col. 1, lines 55-59,64,65. It would have been obvious to one of ordinary skill in the art to use a coiled sheet to form the stent and include locking elements as taught by Khosravi et al. in the stent of Gray such that it prevents collapse. It would also have been obvious to one of ordinary skill in the art to use shape memory material as taught by Khosravi with the stent of Gray such that it is more flexible when inserting in tortuous vessels.

Response to Arguments

Applicant's arguments filed 6/18/04 have been fully considered but they are not persuasive. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the features of Khosravi can be said to improve the stent of Fogarty.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E Pellegrino whose telephone number is 703-306-5899. The examiner can normally be reached on Monday-Thursday from 8am to 5:30pm. The examiner can also be reached on alternate Fridays.

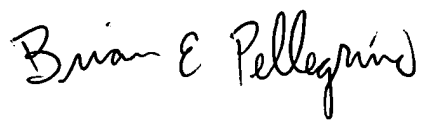
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached at 703-308-2111. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TC 3700, AU 3738
Primary Examiner
Brian E. Pellegrino

A handwritten signature in black ink that reads "Brian E. Pellegrino". The signature is written in a cursive, flowing style.